IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P No. 10733 of 2007
Date of decision : August 07, 2007

Surjit Kaur,

.....Petitioner

through Mr. Rajeev Anand, Advocate

v.

Union of India & another,

.....Respondents

through Mr.Rajiv Sharma, Advocate

CORAM : HON'BLE MR.JUSTICE P. SATHASIVAM
HON'BLE MR.JUSTICE RAJIVE BHALLA

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1. **Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest ?**

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RAJIVE BHALLA,J

The petitioner, who is 63 years old lady, has approached this Court for the issuance of a writ in the nature of mandamus directing respondent No.2 to alter her date of birth, in her passport, by inserting her actual and correct date of birth.

Counsel for the petitioner contends that the petitioner, who is an old illiterate lady, applied for a passport. Inadvertently she disclosed her date of birth as 7.7.1944, instead of 4.7.1944. She appeared before the American Embassy for a Visa and in response to a query, disclosed her date of birth as 4.7.1944. However, it was pointed out to her that as per the entry in the passport, her date of birth was 7.7.1944. Faced with the aforementioned situation, she filed an application, dated 29.6.2007 before

respondent No.2 for rectification of this typographical error in her passport. On 2.7.2007, she was asked to appear before respondent No.2. She pleaded, before respondent No.2, that on account of an inadvertent mistake, she had recorded her date of birth as 7.7.1944. In support of her plea, she submitted affidavits of two relatives, as also a marriage certificate, dated 3.4.2006, issued by the Registrar of Marriage, Kharar, evidencing her date of birth as 4.7.1944. Thereafter, the petitioner also forwarded a detailed representation, dated 3.7.2007.

It is contended that despite the aforementioned facts, respondent No.2 declined to rectify the error in the petitioner's passport. It is further contended that respondent No.2 has placed reliance upon certain guidelines/instructions, issued by the Ministry of External Affairs, dated 18.4.2001 (Annexure P-7), while declining to correct the passport.

Counsel for the respondents contends that in view of the instructions, dated 18.4.2001, the petitioner is required to obtain a declaration from a Court of competent jurisdiction.

We have heard counsel for the parties, perused the paper book, as also the relevant instructions, dated 18.4.2001.

In order to place the present controversy in its correct perspective, it would be necessary to re-produce the instructions, dated 18.4.2001, as under :-

> "As per the current practice, in the case of change of birth/place of birth, the applicant is required to produce the original declaratory order from the first Class Judicial Magistrate. However, in view of the recent judgment given by the High Court of Judicature at Mumbai in

CWP No.1072 of 2000 by Sh. Jagir Harish Shah, the following clarification are issued :

(a) Where an applicant is seeking rectification/correction of a mistake in the entry on the date of birth/place of birth in the passport, PIA may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

(b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment. PIA may effect the necessary amendment in the passport without insisting on a Court order. As per the provisions of Section 21 of the General Clauses Act 1997, a competent authority issuing a certificate could also make a necessary amendments in the same.

(c) Where initial entry has been made on the basis of a supportive document issued by one competent authority i.e School/Educational authority and the applicant further requests for a change on the basis of a certificate issued by another competent authority i.e municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction certifying the valid date of birth/place of birth."

It appears that respondent No.2 has misconstrued or misread the instructions. These instructions have been issued so as to alleviate the constant harassment, suffered by citizens seeking alteration of their date of births in their passports. Clause (a) of these instructions categorically and in no uncertain terms, empowers the Regional Passport Officer to correct a mistake as to a date of birth/place of birth, after duly verifying/satisfying himself and treating the correction to be technical and in such a situation, there would be no need to obtain a declaratory order from a Court of competent jurisdiction. In our considered opinion, the petitioner's case is squarely covered by clause (a) of the instructions. The petitioner seeks a correction in her date of birth from 7.7.1944 to 4.7.1944 i.e a mere three days. She has appended with her application for correction, affidavits of relatives, as also her marriage certificate, disclosing her date of birth as 4.7.1944. The petitioner would not stand to gain any undue benefit from this correction. In our considered opinion, a perusal of the instructions, reproduced above, more particularly clause (a) thereof, reveals situations similar to those obtaining in the present case. Where the correction sought is minor and is of technical nature, the Regional Passport Officer would not be justified in asking the applicant to approach a Court of law to seek a declaration. We have carefully perused the petitioner's application, as also the documents appended thereto and are of the considered opinion that her assertions that a wrong date of birth was mentioned on account of a typographical error, appear to be correct.

In view of what has been noticed herein above, the present petition is disposed of with a direction to respondent No.2 to consider the petitioner's application for correction of the error of her date of birth in the

passport, within a period of 15 days from the receipt of a certified copy of this order, and pass an order in respect thereof.

The present writ petition stands disposed of accordingly.

(RAJIVE BHALLA)
JUDGE

(P. SATHASIVAM)
JUDGE

August 07, 2007.
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